

13 APR 1973

NIXON MOVE URGED OF A MY LAI ISSUE

Lawyer Favors Retention of Investigating General

By SEYMOUR M. HERSCH

Special to The New York Times

WASHINGTON, April 12—A civilian lawyer who aided in the Army's investigation of the My Lai 4 massacre said today that the pending retirement of Lieut. Gen. William R. Peers, who headed the inquiry, was "simply incredible." He termed it a move adding to "the impression that the Army was not really serious about punishing those responsible."

Jerome K. Walsh Jr. of New York, who served as a counsel to the high-level official investigating team in 1969 and 1970, urged President Nixon to intervene with the Pentagon to prevent General Peers's retirement. The Army announced yesterday that the general, who is now deputy commander of the Eighth Army in South Korea, would retire in June.

Similar criticism of the retirement was voiced by Representative Clement J. Zablocki, Democrat of Wisconsin, who said in a statement, "It is incredible to me that the leaders of the Pentagon are prepared to allow General Peers to retire from active duty at this point in our history."

Maj. Gen. Winant Sidle, the Army's chief spokesman, said, however, that General Peers's retirement was routine and added that his "reputation is still outstanding in the Army because of My Lai."

"The real issue," Mr. Zablocki said, "is whether the action of the Army in sidelining General Peers will cause future officers to shy away from calling them as they see them."

Mr. Zablocki said General Peers had been assured by top Army officials after his report was completed that he would be promoted to full general before retirement. Another source subsequently confirmed the arrangement, but added that it had happened.

14 Officers Charged

Asked about this, General Sidle said, "I have not heard that rumor and I am in a pretty good position to hear rumors."

General Peers assembled a staff of more than 100 officers and enlisted men in December, 1969—at the height of the outcry over the My Lai massacre—and began his comprehensive inquiry. Mr. Walsh and another New York lawyer, Robert M. Maccrate, were assigned as counsel.

The groups' 260-page report, which is still secret, concluded four months later that the two generals of the Americal Division, parent unit of the infantry company that attacked the hamlet on March 16, 1968, had committed more than 40 acts of omission or misconduct in connection with the initial field investigations of the massacre, in which more than 100 Vietnamese civilians were killed.

Fourteen officers were charged with aiding the cover-up, including Maj. Gen. Samuel W. Koster, who was the Americal Division commander in March, 1968, and was serving as superintendent of the United States Military Academy at West Point at the time he was cited by the Peers Report.

Only one of the officers, Col. Oren K. Anderson, stood court-martial in the ensuing months, and he was acquitted.

Mr. Walsh criticized the Army's failure to prosecute the officers named in the Peers report and the Army's refusal to release the report as additional factors behind what he called the "impression" that the military was unable to discipline itself.

In a telephone interview, he said General Peers "unhesitatingly applied the highest standards of responsibility and accountability to brother officers who had been his friends and comrades for many years. And when the facts showed that they had failed to meet those standards, he said so in plain language."